

What is the Frank?

The Congressional frank dates back to the English House of Commons in the 17th century.

On November 8, 1775, The American Continental Congress authorized franking privileges to its members as a means of informing their constituents. The first U.S. Congress enacted a franking law in 1789. The franking privilege has remained a necessary and valuable tool of our representative government for more than 200 years.

For the next 150 years, the franking statutes were broadened and limited depending on the mood of the country. During the 19th century Franking privileges were abolished and then reinstated on several different occasions.

During the first half of the 20th century, little was done to modify franking regulations. The General Counsel of the Postal Department (now USPS) would advise Members, on an individual request basis, if a particular mailing was "frankable." In 1968, Postal officials discontinued ruling on congressional materials indicating that it was inappropriate for Postal officials to make such determinations.

The problems and controversies that developed in the next few years could be traced to two basic flaws in the 1895 franking law. First, there were no standards for determining whether or not mail matter should be sent under the frank; Members franked almost anything as "official business." The second flaw was the absence of one authority with clear responsibility for regulating use of the frank.

An onslaught of lawsuits were filed prior to the 1972 congressional elections. Litigants claimed that the incumbents were sending mail under the frank that was not official business, and asked federal courts to assume oversight responsibilities.

With public outcry mounting the first major revision of the franking law since the 18th century was enacted in 1973. Clear principles for official mailings were created and specific types of mail matter were prohibited. Significantly, the 1973 Act established the foundation for the principle of congressional self-regulation. The House Commission on Congressional Mailing Standards was created and authorized to hear and decide cases concerning abuse of franking privilege. Additionally, the Commission was authorized to issue regulations and to provide counsel and instruction to the Members of Congress and their staff.

Since 1973, the Commission has refined and strengthened its self-regulatory mission. In 1977, the Commission amended the House rules to limit the number of postal patron mailings per year, to bar mass mailing during the 60 day period prior to an election, and to require all Members to submit their proposed mailings to the Commission for an advisory opinion. In 1981, these provisions were codified into USC Title 39 to reinforce the authority of the Commission. In 1989, a provision of the Legislative Branch Appropriations Act reduced the number of postal patron mailings from six to three per calendar year.

The "Official Mail Allowance" (OMA) instituted in January 1991, represents the most significant change in recent years in the franking policy. For the first time all mail matter bearing a frank would be accessed against an account established for each Member. Prior to this regulation, the total cost of congressional mailings was lumped into a single appropriation. This reform provided accountability for individual Members as well as an avenue for public disclosure. The OMA is calculated on a formula that is proportional to the number of households in that Member's district multiplied by the first class postage rate. The average allowance in 1997 was \$112,000.00. With the enactment of the OMA, Members were no longer restricted on the number of mass mailings sent annually. Additionally, "mass mailings" were redefined to include all unsolicited mass mailing over 500 pieces regardless of mail type.

On the heels of the U.S. Court of Appeals ruling, the franking statutes were revised again in September 1992. The provision that permitted Members of Congress to mass mail outside their districts was ruled unconstitutional. Congress passed Public Law 102-392 prohibiting Members of Congress from mass mailing outside the congressional district from which they were elected.

The significant changes regarding the congressional frank were enacted in the Legislative Branch Appropriations Act for FY 1997. First, the pre-election prohibition on mass mailing was expanded from 60 to 90 days prior to primary and general elections. Additionally, mass mailings are required to bear disclaimer statements indicating the mailing was paid for at taxpayer's expense. Finally, Members must disclose on a quarterly basis the number of mass mailings sent during that period as well as their costs.

The most recent changes to the congressional mailings occurred in July 1998, when the Committee on House Oversight removed the OMA sub-limit within the Member's Representational Allowance. Beginning with FY 1999, Members of Congress may use any portion of their official budget for mailings.

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